

Message Text

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ACTION EB-08

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PARIS FOR USOECD

DEPARTMENT PASS JUSTICE FOR LEVINE; FTC FOR FISCHBACH

E.O. 11652: N/A
TAGS: UNCTAD, OCON
SUBJECT: INTERIM REPORT ON UNCTAD RBP MEETINGS

1. UNCTAD THIRD AD HOC GROUP OF EXPERTS ON RESTRICTIVE
BUSINESS PRACTICES MET IN GENEVA COMMENCING MARCH 28, 1978.
G-77 COMMENCED BY OFFERING NEW POSITION PAPERS ON MANY
ELEMENTS OF PRINCIPLES AND ROLES FOR CONTROL OF RBPS.
AFTER A BRIEF DISCUSSION OF APPARENT FUNDAMENTAL DIFFER-
ENCES REMAINING, WORK ON DRAFTING OF GROUP B RESPONSES TO
G-77 POINTS COMMENCED. FULL TEXT OF AGREED POINTS AS OF
COB MARCH 30, 1978, FOLLOWS:

BEGIN TEXT: SECTION B, DEFINITIONS, (II)

"DOMINANT POSITION OF MARKET POWER" REFERS TO A SITUATION
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WHERE AN ENTERPRISE, EITHER BY ITSELF OR TOGETHER WITH A
FEW OTHER ENTERPRISES, IS IN A POSITION TO CONTROL THE
RELEVANT MARKET FOR A PARTICULAR PRODUCT OR SERVICE OR
GROUPS OF PRODUCTS OR SERVICES;

(III) "ENTERPRISES" MEAN FIRMS, PARTNERSHIPS, CORPORATIONS,
COMPANIES OR OTHER ASSOCIATIONS, NATURAL OR JURIDICAL

PERSONS, OR ANY COMBINATION THEREOF, WHETHER CREATED OR CONTROLLED BY STATES, LEGAL ENTITIES OR INDIVIDUALS, WHICH ARE ENGAGED IN COMMERCIAL ACTIVITIES AND INCLUDE THEIR BRANCHES, SUBSIDIARIES, AFFILIATES, OR OTHER ENTITIES DIRECTLY OR INDIRECTLY CONTROLLED BY THEM.

SECTION B, SCOPE AND APPLICATION, (I)

(I) THE PRINCIPLES AND RULES APPLY TO RESTRICTIVE BUSINESS PRACTICES, INCLUDING THOSE OF TRANSNATIONAL CORPORATIONS, ADVERSELY AFFECTING INTERNATIONAL TRADE, PARTICULARLY THAT OF DEVELOPING COUNTRIES AND THE ECONOMIC DEVELOPMENT OF THESE COUNTRIES. THEY APPLY IRRESPECTIVE OF WHETHER SUCH PRACTICES INVOLVE ENTERPRISES IN ONE OR MORE COUNTRIES.

(II) THE PRINCIPLES AND RULES FOR ENTERPRISES APPLY TO ALL TRANSACTIONS IN GOODS AND SERVICES.

(III) THE PROVISIONS OF THE PRINCIPLES AND RULES SHALL BE UNIVERSALLY APPLICABLE TO ALL COUNTRIES AND ENTERPRISES REGARDLESS OF THE PARTIES INVOLVED IN THE TRANSACTIONS, ACTS OR BEHAVIOUR. END TEXT.

2. FRENCH DELEGATE APPARENTLY HAS INSTRUCTIONS TO BE AS AGREEABLE AS POSSIBLE WITH G-77, TO THE POINT OF RAISING DIFFICULTIES FROM TIME TO TIME IN GROUP B.

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3. EGYPTIAN DELEGATE INFORMED USDEL ON MARCH 30 THAT, AS A RESULT OF MEETINGS BETWEEN GOE AND REPRESENTATIVES OF US EMBASSY IN CAIRO, HE WAS UNDER INSTRUCTIONS TO BE MORE COOPERATIVE WITH USDEL IN THIS EXERCISE.

4. OVERALL, ATMOSPHERE OF THE MEETINGS SO FAR IS MORE FAVORABLE THAN IN EARLIER SESSIONS. G-77 SPOKESMAN BAGHADIAN (BRAZIL) IS MORE KNOWLEDGEABLE AND SKILLFUL THAN HIS IMMEDIATE PREDECESSORS. G-77 IS MORE BUSINESSLIKE AND LESS CONFRONTATIONAL. REMAINING DIFFICULTIES STILL INCLUDE INTRA-ENTERPRISE PRACTICES, EXEMPTIONS FOR DEVELOPING COUNTRIES AND STATE-CONTROLLED ENTERPRISES, ROLES FOR TNC'S, LEGAL NATURE OF PRINCIPLES AND RULES, COUNTERVAILING POWER FOR DEVELOPING COUNTRY FIRMS, AND INFORMATION. THERE HAS BEEN NO DISCUSSION ON MODEL LINES, TECHNICAL ASSISTANCE OR THE SPECIFIC INFORMATION ITEMS ON THE AGENDA. MOST OF THE DIFFICULT POINTS OF SUBSTANCE REMAIN AHEAD. USDEL WILL CONTINUE TO SEEK IMPROVEMENT OF GROUP B POSITIONS ALONG LINES DESCRIBED IN POSITION PAPER.

5. JAPANESE DELEGATION INFORMALLY MET WITH USDEL TO DISCUSS PROPOSED TOKYO MAY MEETING. FULL AGENDA OF TOPICS

AND MEETINGS SUBMITTED BY JAPANESE EMBASSY TO DOJ. VANDEN
HEUVEL

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